

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF MASSACHUSETTS  
3 NO. 03 CV 12307 RGS

4  
5 JOSEPH CHRISTOFORO,  
6 Plaintiff

7 -VS-

8 JULIO LUPO, FRANK G. COUSINS,  
9 JR., INDIVIDUALLY AND IN HIS  
10 CAPACITY AS ESSEX COUNTY SHERIFF,  
11 and CERTAIN UNKNOWN INDIVIDUALS,  
12 Defendants

13 DEPOSITION OF JOSEPH CHRISTOFORO  
14 Volume II

15 Deposition taken at the law offices  
16 of Merrick, Louison & Costello, 67 Batterymarch  
17 Street, Boston, Massachusetts, on Thursday,  
18 May 19, 2005, commencing at 10:20 a.m.

19  
20  
21  
22  
23 DUNN & GOUDREAU COURT REPORTING SERVICE, INC.  
24 ONE STATE STREET, BOSTON, MASSACHUSETTS 02109  
617-742-6900

## I N D E X

1 WITNESS PAGE

2  
3 JOSEPH CHRISTOFORO

4 Examination by Mr. Hodapp 4  
5 Examination by Mr. Pfaff 113

## E X H I B I T S

10  
11 NUMBER DESCRIPTION PAGE

12 1 Diagram 31  
13 2 Diagram 103  
14 3 Statement 103

15  
16 (Exhibits retained by Mr. Hodapp.)  
17  
18  
19  
20  
21  
22  
23  
24

## A P P E A R A N C E S :

## For the Plaintiff:

3 Gilmore, Rees, Carlson & Cataldo, P.C.  
4 EDWARD J. MCCORMICK, III, ESQ.  
5 1000 Franklin Village Drive  
6 Franklin, Massachusetts 02038

## For the Defendant Julio Luo:

7 Monahan & Padellaro  
8 By JOSEPH F. HODAPP, ESQ.  
9 43 Thorndike Street  
10 Cambridge, Massachusetts 02141

## For the Defendant Frank Cousins:

11 Merrick, Louison & Costello  
12 By STEPHEN C. PFAFF, ESQ.  
13 67 Batterymarch Street  
14 Boston, Massachusetts 02110

15 Court Reporter: Anne F. Penn, C.S.R., R.P.R.  
16  
17  
18  
19  
20  
21  
22  
23  
24

1 P-R-O-C-E-E-D-I-N-G-S

2 JOSEPH CHRISTOFORO

3 having been previously duly sworn, was deposed  
4 and testified as follows:

5 E-X-A-M-I-N-A-T-I-O-N

6 BY MR. HODAPP:

7 Q This is the resumption of a deposition begun on  
8 Monday, May 16th. Good morning, Mr. Christoforo.

9 A Good morning.

10 Q Could you please describe the events of December  
11 23, 2002.

12 A Sure. I went to work that morning as, you know,  
13 and I had a different job that morning. And I was  
14 performing my work detail. Would you like me to  
15 start in the morning?

16 Q Please.

17 A And while I was performing one of my new duties  
18 for that morning, Julio had come into work, was  
19 talking to big Paul -- I don't know his last  
20 name -- about something. I didn't hear what they  
21 were talking about; but he did glance over and  
22 look at me after they had finished their  
23 conversation.

24 And when they were done, I was still doing my

1 work. We were on a serving line preparing the  
2 food for the inmates. And there is  
3 approximately -- there is at that time I believe  
4 there's nine people on the line. I was sitting  
5 on -- say this is the table where the food is  
6 coming down, I was sitting here, there was a  
7 gentleman to my left, a gentleman to my right.  
8 And we were talking and doing our job.

9 And then the kid across -- there was a  
10 gentleman across from me, which I don't recall his  
11 name, but he was wondering why he couldn't take a  
12 cooking job in place of my job, which I was  
13 cooking. I was the head cook at the time but not  
14 at this point. I talked to Paul, and he had given  
15 me a new position.

16 And the kid was talking to the group of us  
17 wondering why he couldn't have a new job. And he  
18 was saying something like he thought he might not  
19 be able to get the job because a racial thing  
20 because he was black or something. He was  
21 wondering why they weren't allowing him to do  
22 something better than he was doing.

23 Julio was in the background, he yelled out why  
24 don't you keep your mouth shut, not talking to

1 work and keep your mouth shut; and that's -- he  
2 punched me in the side of the head thinking I had  
3 said something about a melongena or he heard that  
4 word and punched me in the back of the head.

5 Q You say that Julio thought that you had said --

6 A I don't know.

7 Q -- to Smith --

8 A He heard --

9 Q Please, please. You said that Julio thought you  
10 were the one who told Smith what a melongena is,  
11 what do you base that on?

12 A I don't base it on anything. What I said is he  
13 heard someone say it and he -- well, he just heard  
14 someone say it, he came over, was standing behind  
15 me; and that's when he whacked me in the back of  
16 the head.

17 Q How do you know he heard someone say it?

18 A Because he told us to shut the fuck up and get  
19 back to work.

20 Q Did he use the word "melongena"?

21 A Did he say that?

22 Q When he came back to you, did he use the word  
23 "melongena"?

24 A No, no.

1 anyone in particular, I can hear you all the way  
2 back here he stated. So he wasn't talking to me  
3 or anybody else, he yelled that out. I guess he  
4 might have heard the gentleman talking, he heard  
5 the gentleman talking; so we continued to put the  
6 food on the trays.

7 I think on that day I was putting Granola bars  
8 on the tray. And he had come over, and he had put  
9 his arm on my shoulder and said, again, you know,  
10 I want you guys to keep your mouths shut down  
11 here, you know, I can hear you all the way around  
12 there across the way.

13 And I believe he called the gentleman  
14 across -- he called the gentleman across a  
15 melongena he had said, so I believe Mr. Roberts  
16 was his last name, I forget his first name though;  
17 and he walked away.

18 One of the kids had asked and I believe I had  
19 asked at the time what is a melongena. I didn't  
20 know what it meant. And Ralph Sordillo had  
21 mentioned a melongena is an eggplant, being slang.  
22 I didn't know what that meant.

23 At that point Julio come back, put -- he  
24 stepped behind me and had said get back to fucking

1 Q How do you know he heard someone use the word  
2 "melongena"?

3 A I don't know.

4 Q What happened after that?

5 A Well, after he punched me in the side of the head,  
6 he turned and told us to get the fuck back to work  
7 and walked away.

8 Q Okay. Let's stop there if we may. When was the  
9 first time you saw Julio Lupo on the day of the  
10 incident?

11 A When he came into work.

12 Q What time was that?

13 A Seven o'clock.

14 Q What time did you start work that day?

15 A 4:30 in the morning, five o'clock.

16 Q You mentioned a change of job description.

17 A Yes, sir.

18 Q You began a new job that day?

19 A Yes, sir.

20 Q And how did that come about that you were moved to  
21 a new job on the day of this incident?

22 A I asked Paul if I could have a job change because  
23 I was being badgered and then insulted and then  
24 mentally and physically abused by Julio in the